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Agenda item 112

Review of the efficiency of the administrative and financial functioning of the United Nations

Report of the Fifth Committee (Part III)

Rapporteur: Mr. Tammam **Sulaiman** (Syrian Arab Republic)

I. Introduction

1. The previous recommendations made by the Fifth Committee to the General Assembly under agenda item 112 appear in the reports of the Committee contained in documents A/53/521 and Add.1.

2. The Fifth Committee resumed its consideration of the item at its 46th, 47th, 51st and 54th meetings, on 8, 9, 19 and 31 March 1999. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/53/SR.46, 47, 51 and 54).

3. For its further consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on management irregularities causing financial losses to the Organization (A/53/849);

(b) Note by the Secretary-General transmitting the report of the Office of Internal Oversight Services on the review of procurement-related arbitration cases (A/53/843);

(c) Letter dated 17 February 1999 from the Chargé d'affaires a.i. of the Permanent Mission of Cuba to the United Nations addressed to the Secretary General (A/53/837).

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II. Consideration of proposals

A. Draft resolution A/C.5/53/L.44

4. At the 54th meeting, on 31 March, the representative of Australia, Vice-Chairman of the Committee and coordinator of informal consultations, introduced a draft resolution entitled "Procurement-related arbitration" (A/C.5/53/L.44), following informal consultations.

5. At the same meeting, the Committee adopted draft resolution A/C.5/53/L.44 without a vote (see para. 11).

6. After the adoption of the draft resolution, a statement in explanation of position was made by the representative of Mexico, on behalf of the States Members of the United Nations that are members of the Rio Group (see A/C.5/53/SR.54).

B. Draft decision proposed by the Chairman

7. At the 54th meeting, on 31 March, the Chairman of the Committee orally proposed a draft decision concerning management irregularities causing financial losses to the Organization.

8. At the same meeting, the Committee adopted the draft decision without a vote (see para. 12, draft decision I).

C. Draft decision proposed by the Chairman

9. At the 54th meeting, on 31 March, the Chairman of the Committee orally proposed a draft decision concerning procurement reform.

10. At the same meeting, the Committee adopted the draft decision without a vote (see para. 12, draft decision II).

III. Recommendations of the Fifth Committee

11. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Procurement-related arbitration

The General Assembly,

Having considered the report of the Office of Internal Oversight Services on the review of procurement-related arbitration cases,[1]

1. *Expresses deep concern* about the increase of pending procurement-related arbitration claims instituted against the United Nations, which total 56 million United States dollars as at 19 March 1999;

[1] See A/53/843.

2. *Requests* the Secretary-General to submit to it, for consideration at an early stage during its fifty-fourth session, a comprehensive report, taking into account the recommendations of the Office of Internal Oversight Services and the views expressed by Member States on the issue of arbitration, which should, *inter alia*, cover:

(a) The reasons for arbitration cases;

(b) The roles and mandates of various Secretariat structures and negotiating teams in arbitration and settlement processes;

(c) The sources of funding for arbitration awards and settlement payments;

(d) The selection of outside legal counsels and provisions to preclude conflict of interest;

(e) Disciplinary action taken against staff members responsible for wrongdoing that resulted in arbitration;

(f) Pending arbitration cases;

(g) Measures taken or proposed to prevent or reduce contract disputes which might lead to arbitration in the future;

3. *Also requests* the Secretary-General, without prejudice to the obligations of the United Nations under the Arbitration Rules of the United Nations Commission on International Trade Law,[2] to keep Member States duly informed of all arbitration and settlement cases, *inter alia*, by clearly identifying such cases as separate items in corresponding financial performance reports and indicating corrective and disciplinary measures taken in this regard.

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12. The Fifth Committee also recommends to the General Assembly the adoption of the following draft decisions:

Draft decision I

Management irregularities causing financial losses to the Organization

The General Assembly decides to resume its consideration of the question of management irregularities causing financial losses to the Organization at the second part of its resumed fifty-third session, pending receipt of the relevant information to be provided by the Secretariat and the Advisory Committee on Administrative and Budgetary Questions.

Draft decision II

Procurement reform

The General Assembly decides to resume its consideration of the question of procurement reform at the second part of its resumed fifty-third session.

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[2] United Nations publication, Sales No. E.77.V.6.